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REMARKS

Claims 1-35 are currently pending in the present application and are presently under consideration.

Claims 1, 19, 32, and 35 have been amended herein to further distinguish the present invention from the prior art. Claims 3, 9, 14, 20, and 31 have been amended to remedy minor informalities, and are for clarification purposes only. Such amendments do not narrow the scope of these respective claims. Claims 19, 20, 23, and 24 have been amended herein to remove wording that labels acts of a methodology as steps. Such amendments are made to ensure that the word "step" does not limit claimed methodologies to any particular order unless specifically stated in the subject claims. All pending claims with status identifiers are located at pages 2-7.

Favorable reconsideration is requested in view of the comments and amendments below.

I. Rejection of Claims 1-3, 7-8, 12-13, 18-19, 21-28, 32-33, and 35 under 35 U.S.C. §102(e)

Claims 1-3, 7-8, 12-13, 18-19, 21-28, 32-33, and 35 stand rejected under 35 U.S.C. §102(e) as being anticipated by Paatelma (US 6,463,042 B1). Withdrawal of this rejection is respectfully requested for at least the following reasons. Paatelma neither discloses nor suggests each and every element of applicant's invention as recited in the subject claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

In particular, Paatelma does not disclose or suggest *transmitting the first portion of a data packet at a first transmission power and the second portion of the data packet*

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at a second transmission power, wherein at least the second portion comprises data. Rather, Paatelma teaches receiving slots of data, wherein each slot of data has a header portion and a data portion. If a receiver detects that the header portion is delivered at a different power level than the data portion, reception of such data portion is terminated. Furthermore, Paatelma teaches that transmission power of the data portion is differentiated from transmission power of the header portion during instances that the data portion does not comprise data (e.g., when a base station has no data to transmit to wireless terminals) (See col. 1, lines 49-53). However, Paatelma does not disclose or suggest generating disparate power levels between two portions of a data packet when *the second portion comprises data.*

The present invention facilitates constant range of transmission between two different portions of a data packet via utilizing disparate power levels for portions of the data packet, wherein at least the second portion comprises data. For instance, the first portion can be a preamble, and the second portion can be a header. To maintain a range of 125 feet for both portions, transmission power can be modified.

In view of the foregoing, it is respectfully submitted that Paatelma neither anticipates nor suggests applicant's invention as recited in independent claims 1, 19, 32, and 35 (and claims 2-3, 7-8, 12-13, 18, 19, 21-28, and 33 which respectively depend therefrom), and this rejection should be withdrawn.

II. Rejection of Claim 9 under 35 U.S.C. §103(a)

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Paatelma. It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Claim 9 depends from independent claim 1, and as noted above Paatelma does not teach or suggest transmitting two portions of a data packet at disparate transmittal power levels, wherein at least the second portion comprises data. Therefore, this rejection should be withdrawn.

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III. Rejection of Claims 4-5, 20, and 34 under 35 U.S.C. §103(a)

Claims 4-5, 20, and 34 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Paatelma in view of Hassan (US 6,301,231). Withdrawal of this rejection is respectfully requested for at least the following reasons. Claims 4-5 depend from claim 1, claim 20 depends from claim 19, and claim 34 depends from claim 2. Hassan does not make up for the aforementioned deficiencies of Paatelma with respect to independent claims 1, 19, and 34. Therefore, this rejection should be withdrawn.

IV. Rejection of Claim 29 under 35 U.S.C. §103(a)

Claim 29 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Paatchma in view of Lee, *et al.* (US 5,636,140). Reconsideration and allowance of the subject claim is respectfully requested for at least the following reasons. Neither Paatelma nor Lee, *et al.* alone or in combination teach or suggest all the claim limitations of the subject invention.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Paatelma teaches halting reception of data between two data portions when such data portions are transmitted at disparate power levels. The differing power levels result in instances that the data is structured in a slot format (e.g., TDMA frame, downlink packet data channel (PDCH)) (See col. 1, lines 33-54). More particularly, Quasi-Discontinuous Transmission is disclosed by Paalmeta as a form of downlink power

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control that enables power reduction (See col. 2, lines 15-27). However, Paatelma does not teach or suggest *dynamically adjusting... transmission power of a data packet during transmission of the packet, such that a PLCP preamble portion begins transmitting at a first transmission power level and a data portion begins transmitting at a second transmission power level* as recited in the subject claim. The present invention as recited in this claim facilitates maintaining a desired range of transmission in an IEEE 802.11 protocol via varying transmission power levels between portions of data packets.

Lee, *et al.* discloses a data packet consisting of a PLCP preamble, a PLCP header, and a data portion, thus allowing the data packet to be utilized in connection with an IEEE 802.11 protocol. However, like Paatelma, Lee does not teach or suggest transmitting the PLCP preamble portion and the data portion at different power levels.

In view of at least the above, withdrawal of this rejection and allowance of claim 29 is respectfully requested.

V. Rejection of Claim 6 under 35 U.S.C. §103(a)

Claim 6 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Paatelma and Hassan in view of Lee, *et al.* Withdrawal of this rejection is respectfully requested for at least the following reasons. Claim 6 depends from claim 5, and Lee, *et al.* does not make up for the aforementioned deficiencies of Paatelma and Hassan with respect to claim 5. Therefore, this rejection should be withdrawn.

VI. Rejection of Claims 10-11, 14-17, and 30-31 under 35 U.S.C. §103(a)

Claims 10-11, 14-17, and 30-31 are rejected under 35 U.S.C. §103(a) as being unpatentable over Paatelma in view of Lee, *et al.*, and further in view of Fischer, *et al.* (US 5,768,695). The subject rejection should be withdrawn for at least the following reasons. Claims 10-11 and 14-17 depend upon claim 1, and claims 30-31 depend upon claim 29. Fischer, *et al.* fails to make up for the aforementioned deficiencies of Paatelma and Lee, *et al.* with respect to independent claims 1 and 29. Therefore, this rejection should be withdrawn.

09/483,399T124**VII. Conclusion**

The present application is believed to be condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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